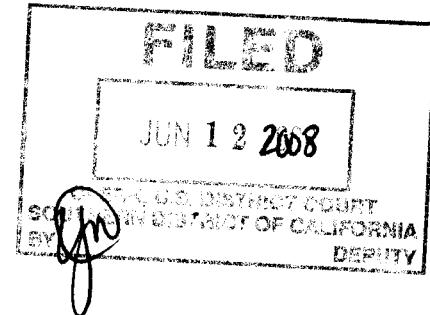


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17 UNITED STATES DISTRICT COURT
18 SOUTHERN DISTRICT OF CALIFORNIA *08CR1948-LAB*
19 UNITED STATES OF AMERICA,) Magistrate Case No. 08MJ1675
20 Plaintiff,)
21 v.)
22 FLAVIA MARQUEZ-MARQUEZ (1),)
23 Defendant.)
24

25 **STIPULATION OF FACT AND JOINT
26 MOTION FOR RELEASE OF
27 MATERIAL WITNESS(ES) AND
28 ORDER THEREON**

29 **(Pre-Indictment Fast-Track Program)**

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1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
2 provide the signed, original plea agreement to the Government not later than five business days
3 before the disposition date set by the Court.

4 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or
5 before **June 30, 2008**.

6 4. The material witnesses, Pablo Romero-Gonzalez, Ofelio Urosio-Navarette and Jacob
7 Gonzalez-Romero, in this case:

8 a. Are aliens with no lawful right to enter or remain in the United States;
9 b. Entered or attempted to enter the United States illegally on or about
10 May 27, 2008;

11 c. Were found in a vehicle driven by defendant in or near Rainbow, California
12 and that defendant knew or acted in reckless disregard of the fact that they were aliens with no lawful
13 right to enter or remain in the United States;

14 d. Were paying \$1,800- \$2,000 to others to be brought into the United States
15 illegally and/or transported illegally to their destination therein; and,

16 e. May be released and remanded immediately to the Department of Homeland
17 Security for return to their country of origin.

18 5. After the material witnesses are ordered released by the Court pursuant to this
19 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
20 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,
21 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

22 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
23 substantive evidence;

24 b. The United States may elicit hearsay testimony from arresting agents
25 regarding any statements made by the material witness(es) provided in discovery, and such testimony
26 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest
27 of (an) unavailable witness(es); and,

28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Flavia Marquez-Marquez (1)

1 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
2 “testimonial” hearsay statements are not admissible against a defendant unless defendant confronted
3 and cross-examined the witness(es) who made the “testimonial” hearsay statements, defendant
4 waives the right to confront and cross-examine the material witness(es) in this case.

5 6. By signing this stipulation and joint motion, defendant certifies that defendant has
6 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
7 further that defendant has discussed the terms of this stipulation and joint motion with defense
8 counsel and fully understands its meaning and effect.

9 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
10 immediate release and remand of the above-named material witness(es) to the Department of
11 Homeland Security for return to their country of origin.

12 It is STIPULATED AND AGREED this date.

Respectfully submitted,

KAREN P. HEWITT
United States Attorney

16 Dated: 6/18/08.


CALEB E. MASON
Assistant United States Attorney

19 | Dated: 6/10/08

Oliver P. Cleary
OLIVER P. CLEARY
Defense Counsel for Marquez-Marquez

22 Dated: 6/10/08

Flavia Marquez
FLAVIA MARQUEZ-MARQUEZ
Defendant

28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Flavia Marquez-Marquez (1)

ORDER

Upon joint application and motion of the parties, and for good cause shown,
THE STIPULATION is admitted into evidence, and,
IT IS ORDERED that the above-named material witness(es) be released and remanded
forthwith to the Department of Homeland Security for return to their country of origin.

SO ORDERED.

Dated:

6/12/08


United States Magistrate Judge